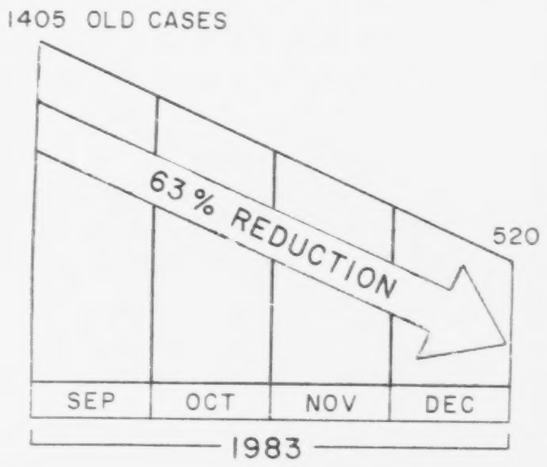
DELAY REDUCTION EFFORT SHOWS RESULTS

In the Fall of 1983, Chief Justice Charles R. Donaldson initiated a delay reduction program in the trial courts. In a September 6 letter to all trial judges, Donaldson called upon court officials to develop a plan of action to reduce the number of older cases pending in the trial courts. He cited court records which showed that at the time there were 1405 cases which had been pending for four years or longer without coming to trial. Stating that the Supreme Court was "cognizant of the heavy workload of our trial bench and that you are diligently performing your duties under very trying circumstances," the Chief Justice urged the best efforts of all to eliminate the backlog. Donaldson set a goal of disposing of at least 50% of the 1405 pending cases within six months.

By the end of the calendar year, the Chief Justice's program had made its mark. Administrative district judges and trial court administrators pitched in throughout the state to review all older pending cases and expedite their handling. Monthly dismissal calendars were established in some counties and special computerized reports were prepared identifying inactive cases. By the end of the calendar year, less than four months later, the number of four-year old active pending cases statewide had fallen to 520 cases--a 63% reduction.

As the year ended, Chief Justice Donaldson commended trial judges for their efforts in reducing court delay, and urged judges to continue close monitoring of their calendars to eliminate backlogs.



PUBLIC TERMINAL EXPERIMENT

Service to the legal community took on a decidedly technological tone in November of 1983, as the Idaho Supreme Court inaugurated the state's first automated public research terminal. Begun as an experiment, with pooled funds from the Supreme Court, Attorney General, Public Utilities Commission and State Industrial Commission, the terminal will stay in operation through 1984 through funds appropriated by the Idaho Legislature.

While costs have been reduced in recent years, computerized legal research systems generally are still too expensive for smaller law firms to purchase on an individual basis. As a consequence, there is a growing gap between the research capabilities of larger law firms who can utilize a dedicated automated system, and smaller firms and sole practitioners who do not have this resource available. The Supreme Court's public terminal balances the scales, making computerized legal research a reality for smaller firms.

Utilizing a LEXIS terminal installed in the State Law Library, the key to the Supreme Court's program is furnishing a full-time terminal operator to assist lawyers and members of the public in obtaining computerized research.

Attorneys and others using the court terminal must sign up for the program and pay an advance deposit to cover costs of machine search time. Users are provided with instructional material, but the terminal operator assists in framing research requests.

The Supreme Court's public automated legal research terminal is still an experiment. Whether enough attorneys and others will sign up and use the computerized service to justify the costs of operation is unknown. But at least for the moment, attorneys in even the smallest law firms and the most remote locations in Idaho are only a telephone call away from the nation's most advanced data banks of research information.

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TRIAL COURT FINANCING GUIDELINES BRING APPLAUSE

CONTROVERSY DEFUSED

In nine months, county government officials and trial judges went from vocal opponents to cooperative partners, thanks to a study of trial court financing initiated by the Idaho Supreme Court. While most officials grant that not all problems have been solved, it now appears less likely that trial court budget disputes will rupture into open warfare.

For two years running, the Idaho Association of Counties had proposed legislation to take administration of the District Court Fund away from trial judges. Court officials strongly opposed this legislation, amid a growing controversy over whether county or state judicial officials should have the management control over funds which support trial court operations in each of the 44 Idaho counties.

Debate before legislative committees became acerbic, and in the House Judiciary, Rules and Administration Committee and the House State Affairs Committee, legislators witnessed county commissioners, clerks, and trial judges presenting arguments ranging from accusations that judges were usurping county authority to suggestions that any problems were imagined only.

After three separate hearings, legislators declined to adopt legislation affecting the district court fund. Individual legislators, however, were asking for help: they needed a way to sort out the conflicting arguments they had heard and to determine whether a legislative solution was really necessary.

Concerned over the public controversy and deteriorating relations between court and county officials in some counties, the Idaho Supreme Court decided to offer a forum to help resolve differences. On May 19, 1983, Chief Justice Charles R. Donaldson appointed a statewide committee of county and court officials to study trial court financing issues and make recommendations.

Meeting throughout 1983, the committee, chaired by Court of Appeals Chief Judge Jesse R. Walters, produced a 50-page report which recommended guidelines for all phases of the district court budgeting process, approval of court expenditures, and supervision of court personnel. Reaction to the committee's recommendations was immediate and positive: the Supreme Court accepted the recommendations of the committee and urged trial judges throughout the state to follow the proposed guidelines. By the end of the year, the committee recommendations seem to have been accepted throughout the state and conflicts and disagreements had been sharply reduced. In place of the open warfare that had been threatened, the end of 1983 saw a firm foundation for a strong financial partnership between county officials and the state judiciary.

WHAT DOES IT COST TO OPERATE THE TRIAL COURTS

In fiscal year 1984, the state of Idaho will spend approximately $6.0 million in general funds (mostly sales and income taxes) for the district courts and magistrates divisions. County and city government units spend about $12.8 million for the trial courts, more than twice the amount spent by the state.

The total cost of the trial courts, including contributions by state, counties and cities amounts to about $18.8 million annually.

The trial courts will produce approximately $11.2 million in revenues in Fiscal year 1984, returning approximately 60 percent of the costs to all units of government in the form of revenues derived from filing fees, court costs, fines and forfeitures.

When only local government expenditures are examined, cities and counties spend approximately $12.8 million each year to operate the trial courts which return over $7 million to local units of government each year. Thus, local units of governments receive back over one-half of their expenditures on behalf of the counties.

Another way of looking at it: government units in Idaho are able to run an $18.8 million trial court system, at taxpayer cost of about $7.6 million. The users of the court--the civil litigants and the criminal defendants--pay about 60% of the cost of court operations.

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If the Idaho Rules are adopted in the proposed or modified form these materials will be an invaluable research aid and source of explanatory comment. If no Rules are adopted they will still be a thorough and up-to-date reference source for Idaho evidence law and comparison with Federal practice. (If the Rules are adopted these Comments will not be published in the Idaho Code.)

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George Hargraves, Administrative Judge, Sixth District
Reynold George, Administrative Judge, Seventh District
Hon. Gary Montgomery, Representative, District 19
Charles Holden, Executive Director of Idaho Association of Counties
Carl F. Bianchi, Administrative Director of the Courts, Reporter

HOW THE COURTS ARE FUNDED

Idaho's trial courts are financed by a combination of state, county and municipal funds. State general account monies finance the salaries and travel expenses of all trial judges, trial court administrators, and court reporters. The state also finances judicial training programs for trial judges and support personnel.

Counties and a few municipalities contribute to operational costs of the trial courts. Counties, and in two cases cities, provide court physical facilities: courtrooms, judges' offices, judicial chambers and the like. Counties and a handful of cities provide additional expenditures for court personnel, supplies, equipment and law libraries.

COURT OF APPEALS MAKES IMPACT

Since it began operation on January 1, 1982, the Court of Appeals has had a significant impact on the backlog of pending appeals in Idaho's appellate system. Because of record filings of new appeals in 1982 and 1983, however, the primary impact of the Court of Appeals has been to keep the appellate backlog from increasing, rather than to make any substantial inroads in reducing the backlog of pending appeals. Nonetheless, the impact of the Court of Appeals has been substantial, and has prevented the state from a disastrous backlog situation which would have been one of the worst in the nation.

As shown below, the assistance of the Court of Appeals in its first year enabled the judiciary to limit the increase of pending appeals to 9.4% in 1982, the second-lowest percentage increase in the last seven years. This limit was accomplished in the face of the second highest number of appeals filed--418--in Idaho's history.

PENDING APPEALS

	Appeals Pending	Appeals Filed	Appeals Disposed	Appeals Pending	Percentage Increase (Decrease) in Pending Appeals
Prior years average					+14%
1982	695	419	354	760	+9%
Without Court of Appeals:			253	861	+24%
1883 actual	760	418	436	742	-2.4%
Net increase to date:					+6.7%
Without Court of Appeals:			325	954	+37%

As also shown, the net increase in the number of pending appeals since the beginning of operation of the Court of Appeals has been 6.7%, which is a substantial improvement over the 37% increase which would have occurred in pending appeals had not the legislature created the Court of Appeals. Additionally, the decrease in pending appeals of 2.4% in 1983 was the first net reduction in pending appeals in the last decade.

CHIEF JUSTICE TO GIVE MESSAGE

In January of 1983, Chief Justice Charles R. Donaldson was the first Chief Justice in state history to present a State of the Judiciary Message to the Idaho Legislature. He has been invited back in 1984 in what now looks like will be an annual visit.

Prior to 1983, Chief Justices made a brief presentation before the Joint Appropriations Committee, and on rare occasions appeared before legislative committees, but there was no single opportunity to address the entire legislature. In January of 1983, following Donaldson's election by the Court to a four-year term, President Pro Tem James Risch and Speaker of the House T. W. Stivers invited the Chief Justice to make a presentation to both houses of the legislature. The Chief Justice outlined for legislators the responsibilities and workloads of the courts, new programs and developments in the judiciary, and general legislative concerns. Legislators liked it, and in 1984 the Chief Justice has been invited back to do it all again, in what promises to become the third branch's equivalent to the Governor's State of the State Message.

DEBATE OVER LAWYER MAGISTRATES

When the magistrate divisions began operation in 1971, two-thirds of the magistrate judges were non-lawyers, and it was thought that a lay judge would be a permanent fixture in the Idaho judiciary. Today, only twelve non-lawyer magistrates are left, and there are signs that the days of the non-lawyer judge may be numbered.

Idaho has always had a strong tradition of citizen participation in the courts. Early probate, justice and police courts were staffed primarily by non-lawyers, and many of those experienced non-lawyer judges stayed on the bench when the magistrate division was created in 1971. In addition to the predominant number of non-lawyer judges who were part of the judiciary in the early 1970's, the district magistrate commissions, which select magistrates, are made up primarily of non-lawyers.

In recent years, while some legislators publicly criticized the judiciary for having too many lawyer judges (one legislator even undertook his own survey to show that non-lawyer judges are better than lawyer judges), the non-lawyer-dominated magistrate commissions quietly have been replacing retiring non-lawyer judges with attorney judges. These activities reached a peak in 1983, when three district magistrate commissions asked to replace non-lawyers with lawyer judges, and insisted upon keeping positions vacant until the legislature approved the additional money for the changes. Commissions argued forcefully that times have changed and that today's complex legal issues demand formal training and skills. Also underlying commission concerns is a belief that state citizens have a right to an equal level of judicial skills, regardless of whether they live far from state's main population centers.

Part of the debate centers on state laws that require a resident magistrate judge in each county in the state, regardless of population or caseload. In past years, legislators have been reluctant to appropriate funds to hire a lawyer judge in rural counties. But magistrate commission members remained determined to obtain lawyer judges. Regardless of what the legislature decides in 1984, the debate over whether all judges should be lawyers is bound to be around as long as there is an Idaho judiciary.

HOW LONG JUSTICE . . .

(Continued from Page 4)

While the averages never can tell the story of delay in an individual case, they do help describe the overall picture of court operations. Fortunately, the Idaho Legislature has recognized the importance--and the real costs--of court delay, and consistently has provided the additional trial court judges who have been needed in recent years to meet the rising caseloads caused by the state's growth and development.

of these cases must be watched carefully, to insure that judicial resources are maintained at needed levels in future years.

COME JUDGE FOR YOURSELF . . .

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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
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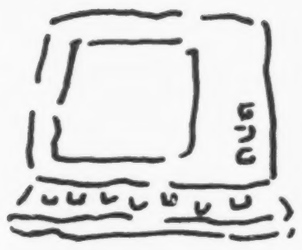

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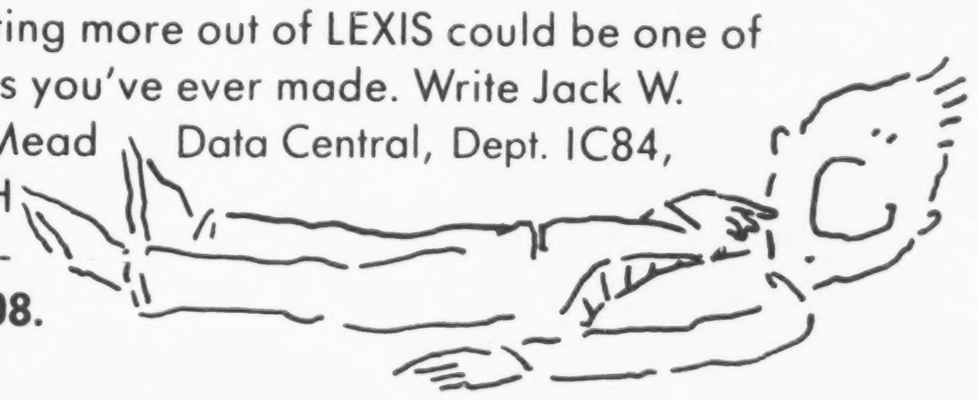

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